

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Serial No.:	10/622,876
Appellant(s):	Shintani et al.
Filing Date:	July 18, 2003
Title:	Electronic Program Guide Feature for AV System
TC/AU:	2424
Customer Number:	22242
Confirmation No.	2767
Examiner:	Son P. Huynh
Attorney Docket No.	81131 7114

Mail Stop: Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

<u>Certificate of Transmission/Mailing</u>	
I hereby certify that this correspondence is being facsimile transmitted to the USPTO, transmitted via the Office electronic filing system, or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patent, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:	
Date <u>11/9/2009</u>	<u>[Signature]</u> Thomas F. Lobens Registration No. 38,221 Attorney for Appellant(s)

APPEAL BRIEF
UNDER 35 U.S.C. § 143(A), 37 C.F.R. § 41.37

To the Commissioner:

This document is an Appeal Brief in support of the Notice of Appeal, filed on June 4, 2008, under 35 U.S.C. § 143(A) and 37 C.F.R. § 41.37.

TABLE OF CONTENTS

SECTION

I.	Real Party in Interest	3
II.	Related Appeals and Interference	4
III.	Status of Claims	5
IV.	Status of Amendments	6
V.	Summary of Claimed Subject Matter	7
VI.	Grounds of Rejection to be Reviewed on Appeal	8
VII.	Argument	9
VIII.	Claims Appendix (Appendix A).....	21
IX.	Evidence Appendix (Appendix B).....	23
X.	Related Proceedings Appendix	24

I. REAL PARTY IN INTEREST

The real parties in interest are the Assignees of the subject matter in the above-referenced patent application: (a) Sony Corporation, a Japanese corporation, 7-35 Kitashinagawa, 6-Chome, Shinagawa-Ku, Tokyo, Japan, and (b) Sony Electronics, Inc., a Delaware corporation, 1 Sony Drive, Park Ridge, New Jersey 07656.

II. RELATED APPEALS AND INTERFERENCES

On information and belief, no related appeals or interferences are pending.

III. STATUS OF CLAIMS

The present divisional application has been originally filed with Claim 1-8 on July 18, 2003. An Amendment was filed on December 10, 2007, wherein Claims 1 and 2 were amended. Claims 1-8 were finally rejected in the Final Office Action, dated March 6, 2008. Accordingly, Claims 1-8 are the subject of this Appeal. The Claims are attached hereto as Appendix A.

IV. STATUS OF AMENDMENTS

The Appellants filed a Pre-Appeal Brief Request for Review and a Brief in Support of the Pre-Appeal Brief Request for Review on June 4, 2008. No amendments have been filed subsequent to the final rejection.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Claim 1 is the only independent claim in this Appeal. The subject matter of independent Claim 1 relates to Appellants' electronic program guide (EPG) circuit, comprising an EPG processor circuit that outputs an on-screen-display (OSD) signal for displaying history information about a selected episode of a program, i.e., information relating to previous broadcast episodes. The history information comprises historical elements, such as a brief description of the plot, actors, themes, salient events, relating to a particular previously broadcast episode of a particular program.

Independent Claim 1 addresses an electronic program guide (EPG) circuit (Specification, p. 4, ll. 27-28) comprising: (a) an EPG processor circuit (Specification, p. 4, l. 28), including a central processing unit (CPU) (Specification, p. 4, ll. 28-29), supplied with a video signal input (Specification, p. 4, l. 29), a horizontal sync input (Specification, p. 4, ll. 29-30), and a vertical sync input (Specification, p. 4, l. 30), wherein the video signal input includes EPG program information in electronic form describing viewable programs which is extracted from the video signal by the EPG processor circuit (Specification, p. 4, ll. 30-32), the EPG processor circuit outputs an on screen display (OSD) signal for displaying the history information about a selected episode of a program (Specification, p. 5, ll. 10-11); (b) a read only memory (ROM) connected to the EPG processor circuit for storing a program used by the EPG's CPU (Specification, p. 4, l. 2 – p. 5, l. 5); and (c) a random access memory supplied with the EPG program information by the EPG processor circuit, for storing EPG program information for a plurality of episodes of a given program (Specification, p. 5, ll. 5-7). Claims 2-8 are dependent on Claim 1.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

- A. Whether Claims 1, 3, and 4 are unpatentable, under 35 U.S.C. § 103(a), over Miller et al. (U.S. Patent No. 5,585,866), in view of Kerman et al. (U.S. Patent No. 5,659,366)
- B. Whether Claim 5 is unpatentable, under 35 U.S.C. § 103(a), over Miller et al. (U.S. Patent No. 5,585,866), in view of Kerman et al. (U.S. Patent No. 5,659,366), and in further view of Ozkan et al. (U.S. Patent No. 7,032,236)
- C. Whether Claims 2 and 6-8 are unpatentable, under 35 U.S.C. § 103(a), over Miller et al. (U.S. Patent No. 5,585,866), in view of Kerman et al. (U.S. Patent No. 5,659,366), and in further view of Ellis (U.S. Patent Application Publication No. 2003/0149988)

VI. ARGUMENT

A. Whether Claims 1, 3, and 4 are unpatentable, under 35 U.S.C. § 103(a), over Miller et al. (U.S. Patent No. 5,585,866), in view of Kerman et al. (U.S. Patent No. 5,659,366)

1. Specific Nature of the Rejection as to Issue A

Claims 1, 3, and 4 have been rejected, under 35 U.S.C. § 103(a), as being unpatentable over Miller et al. (U.S. Patent No. 5,585,866), in view of Kerman et al. (U.S. Patent No. 5,659,366). The Examiner cites Miller et al. (col. 14, l. 41 - col. 15, l. 13) to assert that “the claimed ‘history information’ is interpreted as ‘previously set’ information/data or data or *reminders* previously set by the user” (March 6, 2008, Office Action, p. 3, ll. 3-4). However, the Examiner concedes that Miller et al. fails to disclose “a horizontal sync input and a vertical sync input” (March 6, 2008, Office Action, p. 5, para. 2), but cites Kerman et al. for this teaching (March 6, 2008, Office Action, p. 5, para. 3). The Appellants respectfully submit that the March 6, 2008, Office Action has mischaracterized the cited art. The Appellants respectfully traverse these grounds for rejection on this basis.

2. Relevant Rules as to Issue A

The law, under 35 U.S.C. § 103, is, thus, well settled that, to establish a *prima facie* case of obviousness of a claimed invention, all the claimed elements and limitations must be taught, suggested, motivated, or otherwise obviated by the cited reference or a combination of cited references (MPEP § 2143.03). Distilling an invention down to the “gist” or “thrust” of an invention disregards the requirement for analyzing the subject matter “as a whole” (MPEP § 2141.02(II)). The outstanding rejections in the March 6, 2008, Office Action do not show any supporting text, whatsoever, in the cited references that teaches, suggests, motivates, or otherwise obviates the following claimed limitations, even if the proposed combination of cited art is proper. Thus, the Appellants respectfully submit that a clear error exists in the rejection.

3. Analysis of the patentable distinctions between the present invention and the cited art, Miller et al. (U.S. Patent No. 5,585,866), in view of Kerman et al. (U.S. Patent No. 5,659,366)

Specifically, the combination of elements and limitations, *inter alia*, that patentably distinguish independent Claim 1, as amended on December 10, 2007, from Miller et al., even in view of Kerman et al., are as follows:

- a. “an EPG processor circuit, including a central processing unit (CPU), supplied with a video signal input, a horizontal sync input, and a vertical sync input, wherein the video signal input includes EPG program information in electronic form describing viewable programs which is extracted from the video signal by the EPG processor circuit, *the EPG processor circuit outputs an on screen display (OSD) signal for displaying the **history information** about a selected episode of a program;*” [Emphasis added.]
- b. “a read only memory (ROM) connected to the EPG processor circuit for storing a program used by the EPG's CPU;” and
- c. “a random access memory supplied with the EPG program information by the EPG processor circuit, for storing EPG program information for a plurality of episodes of a given program.”

Consequently, Claims 3 and 4 are also believed to be patentably distinct over Miller et al., even in view of Kerman et al., by dependency on Claim 1, *inter alia*.

With respect to independent Claim 1, both the Miller et al. and Kerman et al. patents fail to teach, suggest, motivate, or otherwise obviate the claimed limitation “the EPG processor circuit outputs an on screen display (OSD) signal for displaying the *history information about a selected episode* of a program” as recited in independent Claim 1. Miller et al. merely discloses examples of applications of the EPG, such as a “REMINDER” message to remind a user of the start of a selected program, the ability to view billing information such as purchase charges and balance information, and a “Locked Program” feature which displays which programs were included in the lockout title list (Miller et al., col. 14, l. 41 - col. 15, l. 5; col. 19, ll. 38-57; and col. 23, ll. 30-52).

In contrast to the cited art, the EPG of the present application displays “*history information*” for the *episodes* of the program that were *previously broadcast*,” the *history information* includes “for example, a brief description of the plot, actors, themes, etc. of a particular program ... the *history [information]* might further describe the *general theme* of the program ... and further describe the *salient events* which take place in *that particular episode*” (Present Application, as published: U.S. Patent Application Publication No. 2004/0019906, paras. 31 and 33).

As such, the Appellants respectfully disagree with the Examiner and respectfully submit that the “REMINDER” message of Miller et al. is *not history information* about a selected episode of a program. Rather, this “REMINDER” message is preset to merely remind a user “at a predetermined time before the start of the selected program[] that he or she would like to view the selected program” (Miller et al., col. 14, ll. 48-50). Because Miller merely displays a “REMINDER” message for prompting a user to view a selected episode of a program, e.g., that which will be broadcast in the future, the *reminder* being generated *before* the selected episode of a program, Miller et al.’s *reminder* cannot be rationalized as the presently claimed “*history information*,” which must, by its very nature (“history” necessarily occurring in the *past*, *not* the *future*), be generated *after* the selected episode of the program. Indeed, common sense dictates that no need, reason, use, suggestion, motivation, or market demand for the Miller et al. system would exist for displaying a “REMINDER” message *about a selected episode* which would have been already broadcast, i.e., the episode would have already “come and gone.” Consequently, even if the Miller et al. system could be altered to provide such a “reminder” to display after the selected episode has already been broadcast, *the very purpose of the Miller et al. system would be eviscerated*. This being so, the Appellants respectfully submit that Miller et al. even teaches against the present invention.

4. Conclusion as to Issue A

Thus, the Appellants respectfully submit that Claims 1, 3, and 4 are not taught, suggested, motivated, or otherwise obviated by the cited art and that finality of the March 6, 2008, Office Action is in clear error. Therefore, the Appellants respectfully request that the grounds for rejection on this basis are reversed and that Claims 1, 3, and 4 are passed to allowance in due course.

B. Whether Claim 5 is unpatentable, under 35 U.S.C. § 103(a), over Miller et al. (U.S. Patent No. 5,585,866), in view of Kerman et al. (U.S. Patent No. 5,659,366), and in further view of Ozkan et al. (U.S. Patent No. 7,032,236)

1. Specific Nature of the Rejection as to Issue B

Claim 5 has been rejected, under 35 U.S.C. § 103(a), as being unpatentable over Miller et al. (U.S. Patent No. 5,585,866), in view of Kerman et al. (U.S. Patent No. 5,659,366), and in further view of Ozkan et al. (U.S. Patent No. 7,032,236). The Examiner cites Miller et al. (col. 14, l. 41 - col. 15, l. 13) to assert that “numerous transmission schemes can be used to transmit the data stream including program schedule information” (March 6, 2008, Office Action, p. 6, para. 3) and Kerman et al. for disclosing “a horizontal sync input and a vertical sync input” (March 6, 2008, Office Action, p. 5, para. 3). However, the Examiner concedes that Miller et al., even in view of Kerman et al., does not disclose “the EPG program information is in the digital signal’s PSIP” (March 6, 2008, Office Action, p. 6, para. 3), but cites Ozkan et al. for so teaching (March 6, 2008, Office Action, p. 7, para. 1). The Appellants respectfully submit that the March 6, 2008, Office Action has mischaracterized the cited art. The Appellants respectfully traverse these grounds for rejection on this basis.

2. Relevant Rules as to Issue B

As discussed, *supra*, the law, under 35 U.S.C. § 103, is, thus, well settled that, to establish a *prima facie* case of obviousness of a claimed invention, all the claimed elements and

limitations must be taught, suggested, motivated, or otherwise obviated by the cited reference or a combination of cited references (MPEP § 2143.03). Distilling an invention down to the “gist” or “thrust” of an invention disregards the requirement for analyzing the subject matter “as a whole” (MPEP § 2141.02(II)). The outstanding rejections in the March 6, 2008, Office Action do not show any supporting text, whatsoever, in the cited references that teaches, suggests, motivates, or otherwise obviates the following claimed limitations, even if the proposed combination of cited art is proper. Thus, the Appellants respectfully submit that a clear error exists in the rejection.

3. Analysis of the patentable distinctions between the present invention and the cited art, Miller et al. (U.S. Patent No. 5,585,866), in view of Kerman et al. (U.S. Patent No. 5,659,366), and in further view of Ozkan et al. (U.S. Patent No. 7,032,236)

Specifically, the combination of elements and limitations, *inter alia*, that patentably distinguishes independent Claim 1, as amended on December 10, 2007, from Miller et al. (U.S. Patent No. 5,585,866), even in view of Kerman et al. (U.S. Patent No. 5,659,366), and even in further view of Ozkan et al. (U.S. Patent No. 7,032,236), is as follows:

- a. “an EPG processor circuit, including a central processing unit (CPU), supplied with a video signal input, a horizontal sync input, and a vertical sync input, wherein the video signal input includes EPG program information in electronic form describing viewable programs which is extracted from the video signal by the EPG processor circuit, *the EPG processor circuit outputs an on screen display (OSD) signal for displaying the **history information** about a selected episode of a program;*” [Emphasis added.]
- b. “a read only memory (ROM) connected to the EPG processor circuit for storing a program used by the EPG's CPU;” and
- c. “a random access memory supplied with the EPG program information by the EPG processor circuit, for storing EPG program information for a plurality of episodes of a given program.”

Consequently, Claim 5 is also believed to be patentably distinct over Miller et al., even in view of Kerman et al., and even in further view of Ozkan et al., by dependency on Claim 1, *inter alia*.

With respect to dependent Claim 5 and as applied to independent Claim 1 with respect to Issue A, *supra*, both the Miller et al. and Kerman et al. patents fail to teach, suggest, motivate, or otherwise obviate the claimed limitation “the EPG processor circuit outputs an on screen display (OSD) signal for displaying the *history information about a selected episode* of a program” as recited in independent Claim 1, even as to Issue C. The EPG of the present application displays “*history information for the episodes of the program that were previously broadcast,*” the *history information* includes “for example, a brief description of the plot, actors, themes, etc. of a particular program ... the *history [information]* might further describe the *general theme* of the program ... and further describe the *salient events* which take place in *that particular episode*” (Present Application, as published: U.S. Patent Application Publication No. 2004/0019906, paras. 31 and 33). The Examiner cites Miller et al. (col. 14, l. 41 - col. 15, l. 13) to assert that “the claimed ‘history information’ is interpreted as ‘previously set’ information/data or data or *reminders* previously set by the user” (March 6, 2008, Office Action, p. 3, ll. 3-4). However, the Examiner concedes that Miller et al, even in view of Kerman et al., does not disclose the presently claimed limitation “displaying the *history information about the selected episode of the program simultaneously with another episode* of the program, *wherein the selected episode of the program occurs previously to the another episode* of the program” (March 6, 2008, Final Office Action, p. 7, Sec. 5).

As discussed, *supra*, the Appellants respectfully disagree with the Examiner and respectfully submit that the “REMINDER” message of Miller et al. is *not history information* about a selected episode of a program. Rather, this “REMINDER” message is preset to merely remind a user “at a predetermined time before the start of the selected program[] that he or she would like to view the selected program” (Miller et al., col. 14, ll. 48-50). Because Miller merely displays a “REMINDER” message for prompting a user to view a selected episode of a program, e.g., that which will be broadcast in the future, the *reminder* being generated *before* the selected episode of a program, Miller et al.’s *reminder* cannot be rationalized as the presently claimed “*history information,*” which must, by its very nature (“history” necessarily occurring in

the *past, not the future*), be generated *after* the selected episode of the program. Indeed, common sense dictates that no need, reason, use, suggestion, motivation, or market demand for the Miller et al. system would exist for displaying a “REMINDER” message *about a selected episode* which would have been already broadcast, i.e., the episode would have already “come and gone.” Consequently, even if the Miller et al. system could be altered to provide such a “reminder” to display after the selected episode has already been broadcast, the very purpose of the Miller et al. system would be eviscerated.

With respect to the tertiary cited reference, the Appellants respectfully disagree and respectfully submit that Ozkan et al., does not disclose the recited limitations found in dependent Claim 5. Rather, Ozkan et al. actually discloses the EPG program information being in the digital signal’s PSIP (Ozkan et al., col. 3, ll. 23-30). Further, nowhere in Ozkan et al., can any teaching, suggestion, motivation, or other obviation of the presently claimed limitation “displaying *history* information *about the selected episode*” is combined with limitation “wherein video signal is a digital signal and *the EPG program information is in the digital signal’s program specific information protocol (PSIP)*” be found.

4. Conclusion as to Issue B

Thus, the Appellants respectfully submit that Claim 5 is not taught, suggested, motivated, or otherwise obviated by the cited art and that finality of the March 6, 2008, Office Action is in clear error. Therefore, the Appellants respectfully request that the grounds for rejection on this basis are reversed and that Claim 5 is passed to allowance in due course.

C. Whether Claims 2 and 6-8 are unpatentable, under 35 U.S.C. § 103(a), over Miller et al. (U.S. Patent No. 5,585,866), in view of Kerman et al. (U.S. Patent No. 5,659,366), and in further view of Ellis (U.S. Patent Application Publication No. 2003/0149988)

1. Specific Nature of the Rejection as to Issue C

Claims 2 and 6-8 have been rejected, under 35 U.S.C. § 103(a), as being unpatentable over Miller et al. (U.S. Patent No. 5,585,866), in view of Kerman et al. (U.S. Patent No. 5,659,366), and in further view of Ellis (U.S. Patent Application Publication No. 2003/0149988). The Examiner cites Miller et al. (col. 14, l. 41 - col. 15, l. 13) to assert that “numerous transmission schemes can be used to transmit the data stream including program schedule information” (March 6, 2008, Office Action, p. 6, para. 3) and Kerman et al. for disclosing “a horizontal sync input and a vertical sync input” (March 6, 2008, Office Action, p. 5, para. 3). However, the Examiner concedes that Miller et al., even in view of Kerman et al., does not disclose “displaying the history information ... about the selected episode of the program simultaneously with another episode of the program, wherein the selected episode of the program occurs previously to ... another episode of the program” (March 6, 2008, Office Action, p. 7, para. 3), but cites Ellis for so teaching (March 6, 2008, Office Action, p. 8, para. 1). The Appellants respectfully submit that the March 6, 2008, Office Action has mischaracterized the cited art. The Appellants respectfully traverse these grounds for rejection on this basis.

2. Relevant Rules as to Issue C

As discussed, *supra*, the law, under 35 U.S.C. § 103, is, thus, well settled that, to establish a *prima facie* case of obviousness of a claimed invention, all the claimed elements and limitations must be taught, suggested, motivated, or otherwise obviated by the cited reference or a combination of cited references (MPEP § 2143.03). Distilling an invention down to the “gist” or “thrust” of an invention disregards the requirement for analyzing the subject matter “as a whole” (MPEP § 2141.02(II)). The outstanding rejections in the March 6, 2008, Office Action do not show any supporting text, whatsoever, in the cited references that teaches, suggests,

motivates, or otherwise obviates the following claimed limitations, even if the proposed combination of cited art is proper. Thus, the Appellants respectfully submit that a clear error exists in the rejection.

3. Analysis of the patentable distinctions between the present invention and the cited art, Miller et al. (U.S. Patent No. 5,585,866), in view of Kerman et al. (U.S. Patent No. 5,659,366), and in further view of Ellis (U.S. Patent Application Publication No. 2003/0149988)

Specifically, the combination of elements and limitations, *inter alia*, that patentably distinguish independent Claim 1, as amended on December 10, 2007, from Miller et al., even in view of Kerman et al., are as follows:

- a. “an EPG processor circuit, including a central processing unit (CPU), supplied with a video signal input, a horizontal sync input, and a vertical sync input, wherein the video signal input includes EPG program information in electronic form describing viewable programs which is extracted from the video signal by the EPG processor circuit, *the EPG processor circuit outputs an on screen display (OSD) signal for displaying the **history information** about a selected episode of a program;*” [Emphasis added.]
- b. “a read only memory (ROM) connected to the EPG processor circuit for storing a program used by the EPG's CPU;” and
- c. “a random access memory supplied with the EPG program information by the EPG processor circuit, for storing EPG program information for a plurality of episodes of a given program.”

Consequently, Claims 2 and 6-8 are also believed to be patentably distinct over Miller et al., even in view of Kerman et al., even in further view of Ellis, by dependency on Claim 1, *inter alia*.

With respect to dependent Claim 2 and 6-8 and as applied to independent Claim 1 with respect to Issue A, *supra*, both the Miller et al. and Kerman et al. patents fail to teach, suggest, motivate, or otherwise obviate the claimed limitation “the EPG processor circuit outputs an on screen display (OSD) signal for displaying the *history information about a selected episode* of a

program” as recited in independent Claim 1, even as to Issue C. The EPG of the present application displays “*history information* for the *episodes* of the program that were *previously broadcast*,” the *history information* includes “for example, a brief description of the plot, actors, themes, etc. of a particular program ... the *history [information]* might further describe the *general theme* of the program ... and further describe the *salient events* which take place in *that particular episode*” (Present Application, as published: U.S. Patent Application Publication No. 2004/0019906, paras. 31 and 33). The Examiner cites Miller et al. (col. 14, l. 41 - col. 15, l. 13) to assert that “the claimed ‘history information’ is interpreted as ‘previously set’ information/data or data or *reminders* previously set by the user” (March 6, 2008, Office Action, p. 3, ll. 3-4). However, the Examiner concedes that Miller et al, even in view of Kerman et al., does not disclose the presently claimed limitation “displaying the *history information about the selected episode of the program simultaneously with another episode of the program, wherein the selected episode of the program occurs previously to the another episode of the program*” (March 6, 2008, Final Office Action, p. 7, Sec. 5).

As discussed, *supra*, the Appellants respectfully disagree with the Examiner and respectfully submit that the “REMINDER” message of Miller et al. is *not history information* about a selected episode of a program. Rather, this “REMINDER” message is preset to merely remind a user “at a predetermined time before the start of the selected program[] that he or she would like to view the selected program” (Miller et al., col. 14, ll. 48-50). Because Miller merely displays a “REMINDER” message for prompting a user to view a selected episode of a program, e.g., that which will be broadcast in the future, the *reminder* being generated *before* the selected episode of a program, Miller et al.’s *reminder* cannot be rationalized as the presently claimed “*history information*,” which must, by its very nature (“history” necessarily occurring in the *past, not the future*), be generated *after* the selected episode of the program. Indeed, common sense dictates that no need, reason, use, suggestion, motivation, or market demand for the Miller et al. system would exist for displaying a “REMINDER” message *about a selected episode* which would have been already broadcast, i.e., the episode would have already “come and gone.” Consequently, even if the Miller et al. system could be altered to provide such a “reminder” to display after the selected episode has already been broadcast, the very purpose of the Miller et al. system would be eviscerated.

With respect to the tertiary cited reference, the Appellants respectfully disagree and respectfully submit that Ellis, even via Knudson, does not disclose the recited limitations found in dependent Claim 2. Rather, Ellis, via Knudson, merely discloses that “a user may also view *a list of all currently requested program reminders*” (Knudson, para. 17). Ellis, via Knudson, merely discloses viewing a list of *reminders* and *does not even disclose* displaying a list of *reminders simultaneously with another episode* of the program. Further, nowhere in Ellis, via Knudson, can any teaching, suggestion, motivation, or other obviation of the presently claimed *history information about the selected episode simultaneously with another episode* be found. To wit, Ellis, via Knudson, even teaches against the present invention as follows: “*before the scheduled broadcast time of each episode of each selected program series, the system sends a reminder message*” (Knudson, para. 16) [Emphasis added].

Further, Miller et al. specifically discloses that “the REMINDER message 130 queries the user as to whether the system should remind the user, at a predetermined time *before* the start of the selected program, that he or she would like to view the selected program” (Miller, col. 14, ll. 47-50) [Emphasis added]. As such, the language found in both Ellis, via Knudson, and Miller et al. indicates that the *reminder* messages are displayed *before the broadcast of an episode* of a program and *not simultaneously with another episode* of the program.

4. Conclusion as to Issue C

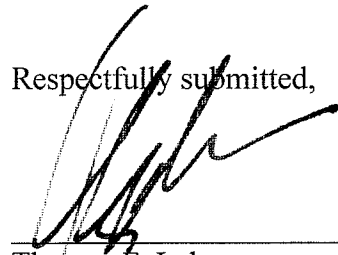
Thus, the Appellants respectfully submit that Claims 2 and 6-8 are not taught, suggested, motivated, or otherwise obviated by the cited art and that finality of the March 6, 2008, Office Action is in clear error. Therefore, the Appellants respectfully request that the grounds for rejection on this basis are reversed and that Claims 2 and 6-8 are passed to allowance in due course.

D. CONCLUSION

Accordingly, the Appellants respectfully submit that Claims 1-8, as contained in Appendix "A" (Claims Appendix), are believed to be patentably distinct over the cited references and that the Claims either stand alone or fall individually. Therefore, reconsideration of the present application in light of the foregoing argument and the evidence presented in the Appendices is respectfully requested. Claims 1-8, as amended on December 10, 2007, are believed to be fully supported by the originally filed specification and are believed to be in allowable form. In view of the foregoing arguments, the Appellants respectfully request that the rejections of the pending claims are REVERSED and that Claims 1-8 are passed to allowance in due course.

Dated: 1/9/2009

Respectfully submitted,



Thomas F. Lebens
Reg. No. 38,221
Attorney for Appellant

Address all correspondence to:

Thomas F. Lebens
FITCH EVEN TABIN & FLANNERY, LLP
120 South LaSalle
Suite 1600
Chicago, IL 60603

Direct telephone inquiries to:

Thomas F. Lebens
(805) 781-2865

VIII. Claims Appendix (Appendix A)

1. (previously presented) An electronic program guide (EPG) circuit comprising:

a) an EPG processor circuit, including a central processing unit (CPU), supplied with a video signal input, a horizontal sync input, and a vertical sync input, wherein the video signal input includes EPG program information in electronic form describing viewable programs which is extracted from the video signal by the EPG processor circuit, the EPG processor circuit outputs an on screen display (OSD) signal for displaying the history information about a selected episode of a program;

b) a read only memory (ROM) connected to the EPG processor circuit for storing a program used by the EPG's CPU; and

c) a random access memory supplied with the EPG program information by the EPG processor circuit, for storing EPG program information for a plurality of episodes of a given program.

2. (previously presented) An EPG circuit according to claim 1,

wherein the EPG processor circuit outputs the on screen display (OSD) signal for displaying the history information about the selected episode of the program simultaneously with another episode of the program,

wherein the selected episode of the program occurs previously to the another episode of the program.

3. (original) An EPG circuit according to claim 1, further comprising a non-volatile memory for storing user specific information pertaining to the EPG circuit.
4. (original) An EPG circuit according to claim 1, wherein the EPG program information is extended data service data contained in the vertical blanking interval of the video signal.
5. (original) An EPG circuit according to claim 1, wherein video signal is a digital signal and the EPG program information is in the digital signal's program specific information protocol (PSIP).
6. (original) An EPG circuit according to claim 1, wherein the EPG program information is received via the Internet.
7. (original) An EPG circuit according to claim 1, wherein the EPG program information is received via a public switched telephone network.
8. (original) An EPG circuit according to claim 1, wherein the EPG program information is received via a cable system's out of band (OOB) data system.

IX. Evidence Appendix (Appendix B)

No exhibits are submitted with this Appeal Brief.

X. Related Proceedings Appendix

On information and belief, no decision by a court or the Board has been rendered in any related proceedings.